

MINUTES

ALCOHOL AND TOBACCO COMMISSION

AUGUST 17, 2010

CALL TO ORDER/NOTING OF QUORUM

Chairman Snow called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson and Commissioner Guthrie. Major Poindexter and Executive Secretary Dunsmore were also in attendance.

Connie Vickery, Marc Carmichael, Bob Kuzman, Mary Walker, George Haere, Linda Miller, Karen Hamilton, Debbie Rolfsen, James Winkler, Ryan Hoff, Jeff McKean, Bart Herriman, Steve Badger, John Barnett, Trevor Vance and Alex Intermill were present as observers.

DISPOSITION OF MINUTES

Commissioner Guthrie moved to approve the minutes that were submitted for the August 3, 2010 meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the August 17, 2010 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

DL15-14174 GREENDALE FOOD MART, INC. - Hearing Judge Dunsmore stated this permittee was cited for furnishing alcohol beverage to a minor. The Prosecutor made an offer to the permittee to settle this matter; however, an agreement could not be reached, so an appeal hearing was held. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation to find the permittee guilty of the offense and charge a fine of \$500.00. Commissioner Guthrie seconded. The motion was unanimously approved.

DL71-22428 SPEEDWAY SUPERAMERICA – Hearing Judge Dunsmore stated this permittee was cited for cold beer sales in a grocery store. The Prosecutor made an offer to the permittee to settle this matter; however, an agreement could not be reached, so an appeal hearing was held. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation to find the permittee guilty of the offense and to charge a fine of \$150.00. Commissioner Guthrie seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Commissioner Guthrie seconded. The motion was unanimously approved.

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners. Commissioner Guthrie seconded. The motion was unanimously approved.

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permit applications for catering. Commissioner Guthrie seconded. The motion was unanimously approved.

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Commissioner Guthrie seconded. The motion was unanimously approved.

Three hundred sixty-two (362) renewals approved, fifty-six (56) new and/or transfer permits approved, seventeen (17) permits approved for catering, two (2) permits approved for first year escrow, five (5) permits approved for second year escrow and two (2) permits approved for third year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Commissioner Guthrie seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR46-06205 MICHAEL W. BUBALO – Commissioner Guthrie noted this is a type 210 transfer of ownership application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated this transfer was part of an agreement that stemmed from the denial of the renewal. That denial is under appeal. The transfer was to be an arm's length transaction. The local board based their recommendation for denial on the fact that this is being sold on contract, so it might not be an arm's length transaction and also the character and fitness of the applicant.

The Commissioner also stated this may still be resolved to the satisfaction of the local board.

Commissioner Guthrie moved to table this matter until September 7, 2010. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL75-27090 HOOK-SUPERX, LLC – Commissioner Guthrie noted this is a new type 208 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL05-26953 GASAMERICA SERVICES, INC. – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL49-26679 WALGREEN CO – Commissioner Guthrie noted this is a new type 208 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL49-26724 WALGREEN CO – Commissioner Guthrie noted this is a new type 208-3 application with the local board voting two (2) to two (2).

Commissioner Guthrie stated there was evidence presented to the local board both for and against the granting of the permit. He felt the evidence for approval outweighed the evidence against.

Commissioner Guthrie moved to approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

RH49-26802 MOTELS OF INDIANAPOLIS, LLP – Commissioner Guthrie noted this is a new type 214 application.

Commissioner Guthrie stated the applicant did not appear before the local board, as required, at three consecutive local board meetings.

Commissioner Guthrie moved to deny the new application. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR49-96376 THE CONTEH GROUP, LLC - Commissioner Guthrie noted this is a type 209 transfer of ownership application.

Commissioner Guthrie stated the applicant did not appear before the local board, as required, at three consecutive local board meetings.

Commissioner Guthrie moved to deny the transfer application. Vice Chairman Johnson seconded. The motion was unanimously approved.

INACTIVE FILES

INACTIVE FILES- Vice Chairman Johnson moved to make nineteen (19) permits inactive. Seventeen (17) permits are not subject to auction and two (2) permits are subject to auction. Commissioner Guthrie seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

NON-RULE POLICY ATC-001 (TRANSFERS) – Commissioner Guthrie moved to approve Non-rule policy ATC-001, as written. Vice Chairman Johnson seconded. The motion was unanimously approved.

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Guthrie moved to adjourn the meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

Approved this _____ day of _____, 2010.

P. TOM SNOW, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER